

REMARKS

The Applicant wishes to thank the Examiner for his examination of the present application. Claims 1, 34, and 79 to 81 have been amended, and claims 97-122 have been added. More particularly, claims 1, 34, and 79 to 81 have been amended to reflect that a portion or at least a portion of each one of the first and second surfaces has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces. For support, see paragraph [00141] of the specification. No new matter has been added.

35 U.S.C. §102

Claims 1-36 and 38-96 stand rejected under 35 U.S.C. 102(b) as being unpatentable over U.S. patent no. 6,652,587 (Felt et al., hereinafter Felt). Claim 1 is directed at an articular implant that includes, in part, a first surface and a second surface wherein the first surface opposes a first articular surface of a joint and the second surface opposes a second articular surface of a joint. A portion or at least a portion of each one of the first and second surfaces has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces.

Felt discloses an implant that has a tibial surface shape designed to be formed to and congruent with the tibial surface, and a femoral surface shape that serves largely as a glide path with respect to the femoral condyle. Nowhere does Felt disclose an implant in which a portion or at least a portion of *each* one of the first and second surfaces has a three-dimensional shape that substantially matches the shape of *one* of the first and second articular surfaces, as required by amended claim 1 (emphasis added).

Since Felt fails to disclose or suggest an implant in which a portion or at least a portion of *each* one of the first and second surfaces has a three-dimensional shape that substantially matches the shape of *one* of the first and second articular surfaces, as required by amended claim 1, amended claim 1 is patentable over Felt. Claims 2-33 and 42-65 which depend from amended claim 1, are likewise patentable over Felt and are further allowable in view of the additional limitations set forth therein.

Amended independent claim 34 and dependent claims 35, 36, and 38-41; claims 67-69, which depend on claim 1 or 34; independent claim 70 and dependent claims 71-

75; independent claim 76 and dependent claims 77 and 78, independent claims 79-91; amended independent claim 92; and amended independent claim 93 and dependent claims 94-96 each reflect that a portion or at least a portion of each one of the first and second surfaces has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces, and thus are allowable for the same reasons as claim 1, and are further allowable in view of the additional limitations set forth therein.

It is submitted that all pending claims are in condition for allowance.

Reconsideration of the claims and a notice of allowance are therefore requested.

Applicants believe that a three month extension of time is required; however, this conditional petition is being made to provide for the possibility that the applicant has inadvertently overlooked the need for an extension of time. Please charge deposit account 19-4972. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

The Examiner is requested to telephone the undersigned if any matters remain outstanding so that they may be resolved expeditiously.

Respectfully submitted,

/Alexander J. Smolenski, Jr., #47,953/

Alexander J. Smolenski, Jr.
Registration No. 47,953
Attorney for Applicant

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618
(617) 443-9292
02960/00112 748082.1